

C/S 2777/15

IN THE HIGH COURT OF SIERRA LEONE
HOLDEN AT FREETOWN

The STATE

V

- 1. SAIDU DUMBUYA**
- 2. ABU BAKARR BARRIE**

COUNSELS

V ROBIN-MASON JNR

FOR THE STATE

S BOBANIE-BROWN

FOR THE ACCUSED

Judgment Delivered this day 7th Day of June 2017 by the Hon Mr. Justice Ernest Gooding J

JUDGEMENT

1. Both accused persons are charged with Robbery, Contrary to SECTION 23(2) of the Larceny Act 1916 as repealed and replaced by section 2 of the Imperial Statutes (Criminal Law) Adoption (Amendment) Act 1971 Act No 16 of 1971.
2. The particulars of offence States that Saidu Dumbuya and Abu Bakarr Barrie on the 10th day of November 2015 at Freetown in the Western Area of the Republic of Sierra Leone robbed Saidu Sulaiman Dumbuya of one TV motor Bike of the value Le 5,200,000.00 (Five million two hundred thousand Leones) the property of the said Saidu Sulaiman Dumbuya.
3. Both accused persons pleaded not guilty on the 1st February 2017.
However on the 3rd May 2017, both accused persons changed their plea from not guilty to guilty.

4. Prior to the change of plea the unchallenged evidence of the complainant Saidu Sulaiman Dumbuya was as follows:

The witness informed the court that he is a bike rider commonly called OKADA rider.

He went on to say ;

I do know both accused persons

I recall the 10th November 2015

On the 10th November 2015 I was at the SLPMB in Wellington.

This was sometime around 9pm. whilst I was awaiting passengers accused No 1 came and sat on my bike. He informed me that there was another passenger who was traveling with him.

I told him I can only take one passenger

At this stage accused No 2 Abu Bakar Barrie said "Okadaman what did you say?"

The witness further said that although it was about 9 or 10pm at night the location where he was, was bright i.e. it was lit up by electricity ^{As} ~~so~~ it is an Industrial Area.

The witness said he agreed to take both Accused persons. "They say they were going to the old Wharf".

When we arrived at the Old Wharf the witness continued I heard a voice from the area where I left the two accused persons, saying "Limba man please park your bike"

Accused No 1 then asked that I take them back to the junction.

On the way to the junction, accused No 1 told me to stop the bike as they intended to alight

I was told to park near a petrol filling station. The area was dark said the witness.

Accused No 2 enquired about the fares.

I told him 4000 Leones each way in total. The witness then said "I saw Accused no 2 put his hand in a bag he was carrying."

"I put out my hand and he placed something on it."

I don't know what it was but I went dark. I was blinded by this substance placed in my hand. I became unconscious.

I later found myself in a gutter. Later I manage to creep out of this gutter.

~~EAA~~ When I came out ^{of} the gutter I realized that my bike and my bag had gone missing.

The total amount of monies in my bag was 1.4 million Leones. I also had a white Galaxy mobile phone.

I lost the bike, the monies, and my phone.

I later alerted other okada riders, my colleagues of my ordeal.

I went with my colleagues looking for my bike. We went as far as Jui and returned back to SLPMB.

When I returned back to SLPMB I got a phone call from a friend called Sahr.

Sahr informed me that on his way home to old Wharf, he met two persons pushing a bike.

He said one of them asked him to help them ride the bike as the other one was drunk, and unable to ride the bike.

The witness further said his friend Sahr assisted them and rode the bike.

The witness also said he was informed by Sahr that the number plate registered "Limba Man" And he Sahr realized that the bike belonged to him, ~~that the person for the phone call.~~

Sahr told me the witness said that he took both Accused persons to an unfinished house in old Wharf. Sahr further said according to the witness that he was told by the Accused persons that they had run a mission on the bike.

The witness also said Sahr told him he was offered money to keep quiet over the incident but that he did not accept the money offered.

Later together with army personnel and accompanied by Sahr the bike was located in Old Wharf near an unfinished house.

The witness went on to say that he collected his bike and a man and two ladies were arrested in an unfinished house in Old wharf and conveyed to Calaba town Police station. Two people were later arrested and charged at the Calaba town police Station in relation to this matter.

The two people charged are the two men in the dock.

I made a statement at the Calaba town Police Station.

I was also sent by the police to the Rokupar hospital where I was treated and discharged.

4.

I returned the endorsed medical report to the police station. Medical report tendered for identification and marked Z

The Registration NO. of my bike is AKW 372

5. At this stage both Accused persons asked that the indictment be put back to them
Both accused persons pleaded guilty.
6. The evidence tell it all.
7. The maximum sentence for this offence is life imprisonment.
8. In passing sentence I am not only required to consider the nature of the offence and the offence but I am also required to consider the evidence, the demeanor of the accused, the complainant, the public and any mitigating circumstances.
- 9.

BUTLER THE EDITOR OF THE 36TH EDITION OF ARCHBOLD in paragraph 1761 page 644 describe robbery as consisting in the felonious taking of money or goods of any value from the person or another, or in his presence, against his will, by violence or putting him in fear

In R v Reane, 2 Lench 616 and R v Edwards, cox 82 it was said that taking by either of the above mentioned means against the will of the party is sufficient to constitute robbery.

10. In this case and from the unchallenged evidence it is clear that the accused persons took the bike and money from the complainant by violence and they also put him in fear.

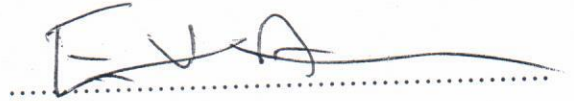
The demeanor of both accused in my opinion is that they showed no remorse. They knew they were guilty but put the accused through the ordeal of reliving the events of 10th November, 2015 in the witness box. The complainant looked very shaken whilst giving evidence showing the effect of this unfortunate incident.

In respect of the public generally it is the duty in my view of judges to protect them from criminality whenever possible.

Finally I have listened to the plea in mitigation and I thank counsel for her efforts.

5.

Having meticulously followed and perused the evidence and other matters in this case. I believe that both convicts are DANGEROUS Criminals and let loose will commit similar offence on innocent citizens. I therefor sentence both accused persons to thirteen years imprisonment each to be served at the Sierra Leone Correctional service.

A handwritten signature in black ink, appearing to read 'E. J. A.', written over a horizontal dotted line.

Justice Ernest Gooding J

7th June 2017.